

MINUTES
Montana Fish, Wildlife & Parks
Commission Conference Call Meeting
1420 East 6th Avenue – Helena Headquarters
Helena, MT 59620
AUGUST 30, 2007

Commission Members Present: Steve Doherty, Chairman; Shane Colton, Vice-Chairman; Willie Doll.

Fish, Wildlife & Parks Staff Present: Chris Smith, Acting Director; Chris Hunter, Jim Kropp, Joe Maurier, Ken McDonald, Jeff Herbert, Quentin Kujala, Ron Aasheim, Bob Lane, Regena Peterson, Hank Worsech, Neal Whitney, Mike Korn, Pat Flowers, Sam Sheppard.

Fish, Wildlife & Park Staff Present on the Telephone: Martha Abbrescia, Lee Anderson, John Fraley, Dave Landstrom, Mack Long, Kurt Alt, Gary Bertellotti, Fred Schultz, Ray Mule', Andrew McKean, Judy Elletson, and Mike Moore.

Guests Present on in Person and on the Telephone: Dale Becker, Tom McDonald, Stephanie Gillin, and Frank Gillin of the CSKT Tribes, Brooklyn Baptiste, Ryan Sudbury, and John Strombeck of the Nez Perce Tribe, Mary Ellen Schnurr of MOGA, Stan Frazier, Susan Gallagher of the Associated Press, Larry Kline and Eve Byron of the Independent Record, and Randy Lilje and Tim McGee of the City of Helena.

Topics of Discussion:

- 1. Opening – Call to Order**
- 2. Lone Pine State Park Land Acquisition (Van Riper Property) – Final**
- 3. Yellowstone River Fishing Regulation Change – Tentative**
- 4. Proposal to Accept Kelly Island FAS Land Donation – Final**
- 5. Holmgren State Park Fishing Access Site – Endorsement**
- 6. 2007 Late Season Waterfowl Seasons / Closures - Final**
- 7. 2007 CSKT Upland Bird and Waterfowl Regulations – Final**
- 8. Season Extension Administrative Rule – Final**
- 9. Helena Urban Deer Management Plan – Endorsement**
- 10. Helena Urban Deer Quota Proposals – Tentative**
- 11. 2007 Bison Season and Quotas – Final**
- 12. Open Microphone – Public Opportunity to Address Additional FWP Issues**

1. Call to Order. Chairman Doherty called the conference call meeting to order at 1:40 p.m.

2. Lone Pine State Park Land Acquisition (Van Riper Property) – Final. Joe Maurier, FWP Parks Division Administrator, explained that this proposal to purchase 40 acres adjoining Lone Pine State Park was endorsed by the Commission in September of 2006. The Van Ripers had agreed to wait one year for FWP to purchase the property, after which time they would place it on the market. They have been closely working with the Department in this matter.

This acreage appraised at \$600,000, but the purchase price is \$470,000. The easement will be bought fee title, and there will be no residential development or commercial timber sales allowed, as was the desire of the landowners. The comment period generated twenty-eight comments in support of the acquisition.

Action: Colton moved and Doll seconded the motion to approve acquisition of the 40-acre parcel of land from the Van Riper family for addition to Lone Pine State Park. Motion carried.

3. Yellowstone River Fishing Regulation Change – Tentative. Chris Hunter, FWP Fisheries Division Administrator, said two changes concerning the Yellowstone River are now being proposed to the tentative fishing regulations that were approved at the August 2 meeting. Fisheries managers discussed additional changes that would further simplify the regulations. Those suggested changes would create a new regulation for harvest of trout from Yellowstone National Park downstream to Billings, and would eliminate regulation exceptions that allowed cutthroat trout fishing on the river near Billings. Approval of these changes today will provide sufficient time for public comment and yet allow them to be included in the final regulation decision to be made at the October Commission meeting. The combined trout regulation will allow harvest of 4 brown or rainbow trout daily and in possession with only one over 18 inches.

Hunter said that Commissioner Vermillion was consulted and supported the two proposed changes. Colton stated that he and Commissioner Vermillion had spoken, and they both support these changes.

Action: Colton moved and Doll seconded the motion to approve the proposed amendments to the tentative Yellowstone River fishing regulations. Motion carried.

4. Proposal to Accept Kelly Island FAS Land Donation – Final. Chris Hunter, FWP Fisheries Division Administrator, explained that the 40-acre parcel of land is adjacent to the 650-acre Kelley Island FAS along the Clark Fork and Bitterroot Rivers. This area has been designated as key to the Missoula Urban Area Open Space Plan, which means that it is a high priority for protection. The landowners have agreed to sell the land to Missoula for \$20,000, and FWP will pay for the appraisal and closing costs, approximately \$3,500. Missoula will deed the land to FWP, who will then be responsible to maintain it

There are no structures or roads on the property, it is located within the 100-year floodplain, and it does not provide for legal access by vehicle. The landowners want to sell the property to an entity such as FWP who will permanently protect the land as open space. Five public comments were received in support of the proposal.

Action: Colton moved and Doll seconded the motion to approve acceptance of the donation of the 40-acre parcel of land adjacent to the Kelly Island FAS. Motion carried.

5. Holmgren State Park Fishing Access Site – Endorsement. Commissioner Colton explained that this 177-acre property is located between Columbus and Two Bridges on the north side of the Yellowstone River. Acquisition of a river access in this area has been a regional priority, and the adjacent property, known as the Eagles Nest, was sought for purchase several years ago but subsequently sold to another buyer. The Holmgren property has 1.9 miles of Yellowstone River frontage, which includes cottonwood stands and terrain suitable for excellent river access. It is similar to the Young's Point property that was endorsed for possible acquisition in June. The purchase price will be in the area of \$4,000 per acre.

Joe Maurier, FWP Parks Division Administrator, agreed the property is similar to the Young's Point property, and added that is perhaps better. This land is not on the market. It has been in the family for 100 years, and they want to see that it is managed in the future. Mr. and Mrs. Holmgren are getting up in age and it is important to them to know that FWP is seriously considering the site.

Chris Hunter, FWP Fisheries Division Administrator, said the Department has been looking for a fishing access site in this stretch of the river for a long time, and totally supports this proposal.

Action: Doll moved and Colton seconded the motion to authorize FWP to pursue the potential land acquisition of the Holmgren property along the Yellowstone River in Stillwater County.

Chairman Doherty asked for public comment. There was none.

Action on Motion: Motion carried.

6. 2007 Late Season Waterfowl Seasons / Closures – Final. Jeff Herbert, FWP Wildlife Division Assistant Administrator, explained that late season regulations pertain to ducks, geese swans and coots. There was one change to the tentatives. The Central Flyway Falconry season for ducks, coots, and mergansers advanced to September 21 – January 3.

Action: Doll moved and Colton seconded the motion to approve the 2007 Late Season Waterfowl Seasons as recommended by the Department. Motion carried.

7. 2007 CS&KT Upland Bird and Waterfowl Regulations – Final. The Confederated Salish and Kootenai Tribes and the State of Montana have entered into a cooperative management agreement on the Flathead Reservation. Regional FWP staff is included in the development of Tribal upland game bird regulations. **Jeff Herbert, FWP Wildlife Division Assistant Administrator**, explained that the CS&KT Tribes present their regulation recommendations to their Tribal Council and Wildlife Boards for approval, and then those recommendations are brought before the FWP Commission for their approval. Typically, the tribal regulations are similar to those of FWP.

Dale Becker, CSKT Wildlife Manager, stated that the regulations have been approved by the Tribal Council.

Action: Colton moved and Doll seconded the motion to endorse the final Confederated Salish and Kootenai Tribes upland game bird and waterfowl regulations.

Chairman Doherty asked for public comment. There was none.

Action on Motion: Motion carried.

8. Season Extension Administrative Rule – Final. Quentin Kujala, FWP Wildlife Management Bureau Chief, explained that the adjustment enhances management flexibility for certain circumstances, such as weather conditions. There were no changes to the proposed tentatives. The language would separate harvest evaluation from the previous years' harvest, and would clarify the ability to extend a season when and if severe weather stood to significantly increase tolerated or prescribed harvest.

Action: Colton moved and Doll seconded the motion to approve the final Season Extension Administrative Rule of Montana. Motion carried.

9. Helena Urban Deer Management Plan – Endorsement. MCA 7-31-4110 reads as follows: *A city or town may adopt a plan to control, remove, and restrict game animals, as defined in 87-2-101, within the boundaries of the city or town limits for public health and safety purposes. Upon adoption of a plan, the city or town shall notify the department of fish, wildlife, and parks of the plan. If the department of fish, wildlife, and parks approves the plan or approves the plan with conditions, the city or town may implement the plan as approved or as approved with conditions.* History: En. Sec. 1, Ch. 466, L. 2003.

Quentin Kujala, FWP Wildlife Management Bureau Chief, said the City of Helena has developed an Urban Deer Management Plan whereby sharpshooters will eliminate a set number of deer within the city limits. FWP endorses plan specifics and the objective. FWP is not committing any funding, but has agreed to help the City of Helena look for funding sources. Not everyone is in favor of this action.

10. Helena Urban Deer Quota Proposals – Tentative. The City of Helena has determined a quota of 350 deer will be killed during the months of October 15 and February 15, 2008.

Colton asked if all parties are comfortable with the quota, and if it was based on science. Kujala said it will need to be refined as it proceeds. There has been a great deal of public involvement, and there will be additional opportunity before the final decision.

Jeff Herbert, FWP Wildlife Division Assistant Administrator, said the quota of 350 is the upper limit, not the requirement.

Randy Lilje, City of Helena, said the city commission has committed \$30,000 to undertake the plan. They are looking forward to working with FWP and to developing an MOU to create a long range project that may involve legislative issues.

Action: Colton moved to approve the tentative harvest quota of 350 deer

Doll asked if this is a one-year thing, to which Kujala replied yes.

Action on Motion: Doll seconded the motion.

Chairman Doherty asked for public comment. There was none.

Action on Motion: Motion carried.

Action: Colton moved and Doll seconded the motion to endorse the Urban Deer Management Plan.

Chairman Doherty asked for public comment.

Stan Frazier, Helena Hunters and Anglers Association, said his organization does not want to see sportsmen's dollars spent on this plan. They have a problem with the wildlife being treated like vermin that need to be exterminated. They do not want sportsmen's dollars going to the City of Helena for something like this. They would like to see the money go toward more wardens, law enforcement, etc. He said this is just the beginning – if FWP gets in the business of helping to fund cities, there will be no end.

Colton said he understands those concerns, and stated that the Commission has made it clear that sportsmen's dollars will not be spent to handle city problems.

Action on Motion: Motion carried.

As this is tentative, opportunity for public comment will be provided.

11. 2007 Bison Season and Quotas – Final. Quentin Kujala, FWP Wildlife Management Bureau Chief, briefed the commission on proposed changes to the tentatives.

The proposed Standard Package now includes **18** (not 15) either sex licenses in HD 385 over three time periods and **26** (not 25) either sex licenses in HD 395 over the same intervals. The Liberal Package potentially adds an additional **100** (not 110) cow/calf licenses (**54** in HD 385, **46** in HD 395) incrementally if 60 or more bison are identified within a specific district.

A ***second choice*** drawing for each time period, in each district, would be used to develop lists of hunters who might receive cow/calf licenses.

The early-season hunt proposed for HD 385 has been removed.

The tentative adoption of a DVD mailing to license holders and potential license holders is now proposed to include a ***mailed test*** to be completed and presented prior to license purchase.

This proposal matches state-issued licenses within established time windows with the same number of Tribal Treaty licenses split between the Nez Perce and Confederated Salish and Kootenai Tribes. It requires the minor adjustments to license numbers noted above to accommodate the bison-hunt EA.

Members of the Nez Perce and CSKT, hunting with Tribal Treaty licenses, will need to carry a license and Tribal ID and will be required to follow established regulations—to include safety (no shooting) zones, legal shooting hours, no waste of game, no shooting from or across a public road—and follow U.S. Forest Service road and travel restrictions while hunting. Successful Tribal hunters, or the Tribe, will need to report any bison killed to FWP. FWP Law Enforcement will monitor compliance.

Colton stated that several productive meetings have been held since January to formulate a plan to accommodate everyone. This proposal is fair and reasonable and provides the opportunity for the tribes to exercise their treaty rights. It is hoped that things go more smoothly than they did during last year's hunt.

Doll stated that although it is difficult to reach a consensus when there are so many variables involved, his suggestion is to support the proposal and do the best with it than can be done.

There was considerable discussion regarding the portion of the regulations concerning tribal identification, safety zones, shooting hours, waste of game, no shooting across roads, following Forest Service travel restrictions, and reporting harvested animals.

Brooklyn Batiste, Nez Perce Tribe, said he is concerned that the state is imposing regulations onto tribal sovereignty. He was uncomfortable with accepting regulations without further tribal discussion. The tribe polices themselves, and they have safety provisions in their own regulations. They will compare their regulations with FWPs, and if something differs they will look into it.

Tom McDonald, CSKT Tribe, shared the same concerns about the state regulations that are not currently part of their regulations, as theirs are already set and they do not wish to make further changes. They already have made some changes they feel will allow for a better hunt. He said they comply with forest service regulations, and they will report hunt kills to the state. They have a permit system, they have an orientation process, and their hunters must possess a tribal ID. They do not recognize regulations on jurisdictions, they have no shooting hour regulations, and they do not require wearing hunter orange. A meeting with the Tribal Council is planned for mid-September to talk about regulations.

Colton said the regulations are simple and innocuous. They have been discussed with the Nez Perce throughout the process, and he believes they are in line with the regulations the tribes already have in place.

Bob Lane said those provisions deal with basic safety and no waste of game, and have been discussed with tribal staff. If the tribes have similar regulations that address these issues, the commission might agree with what they have. He suggested a side-by-side comparison of state and tribal regulations.

Doherty stated that even though tribal wardens police tribal members, state game wardens still have to see a tribal ID and license. FWP sets the harvest numbers based on the biology of the animals available in the huntable areas. An agreement needs to be reached soon as time is running out. A cooperative agreement was developed on upland bird and waterfowl regulations so why should bison be any different?

Ryan Sudbury, Nez Perce Tribe, said the Department of Livestock is taking part of the state's take when they cull the bison to protect economic interest. The tribe gets no benefit from it.

Colton said as disturbing as the roundup and harvest may be, it is not part of the season setting process on huntable ground. The proposed quotas are the numbers that can be supported, and FWP can only allocate permits on huntable grounds. The DOL harvest cannot be calculated into the quotas as FWP has no access to them.

Doll stated that the tribes do benefit because many of the tribes are livestock producers, and it should be of concern to the tribes.

Doherty stated that those bison are not part of an actual hunt. He understands the point being made that if bison can be slaughtered by DOL, then why isn't it possible for hunters to harvest them, however APHIS is in charge.

Bob Lane, FWP Legal Counsel added that the Bison Management Plan does not include authority over the Brucellosis part of bison management. Neither FWP, DOL, or the tribes have any say over that.

Doherty said FWP will not presume to tell the tribes what regulations to adopt, however there are three governments dealing with this resource. FWP has formulated a fair chase hunt with the knowledge and understanding of the animal, and the importance of this herd. The genetic viability of this herd is untouched by cattle genes. FWP has to go forward, and he concurred with the suggestion to conduct a side-by-side regulation comparison between the state and the tribes to determine any differences in regulations.

Action: Colton moved and Doll seconded the motion to approve the Final 2007 Bison Regulations as applies to district, quotas and allocations as recommended by the Department.

Tom McDonald said they want to see the recovery of bison as a big game species in Montana, and they look forward to a successful hunt by all parties.

Pat Flowers, Region 3 Supervisor, said Region 3 and the Wildlife Division staff have communicated informally with both tribes on the proposed changes including the safety regulations.

Action on Motion: Motion carried.

12. Open Microphone – Public Opportunity to Address Additional FWP Issues. There were none.

Action: Colton moved and Doll seconded the motion to adjourn. Motion carried.

The conference call meeting adjourned at 3:20 p.m.

Steve Doherty, Chairman

Chris Smith, Acting Director